
STATUTORY INSTRUMENTS

2005 No. 654

IMMIGRATION

**The Immigration (Leave to Remain)
(Fees) (Amendment) Regulations 2005**

<i>Made</i>	- - - -	<i>10th March 2005</i>
<i>Laid before Parliament</i>		<i>10th March 2005</i>
<i>Coming into force</i>	- -	<i>1st April 2005</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 5(1), 5(3)(b) and 166(3) of the Immigration and Asylum Act 1999⁽¹⁾, having regard to the meaning of “prescribed” in section 167(1), with the approval of the Treasury, hereby makes the following Regulations:

1. These Regulations may be cited as the Immigration (Leave to Remain) (Fees) (Amendment) Regulations 2005 and shall come into force on 1st April 2005.

2. The Immigration (Leave to Remain) (Fees) Regulations 2003⁽²⁾ shall be amended as follows.

3. In regulation 2, for paragraph (c) of the definition of “application” substitute the following definition—

“(c) the fixing of a limited leave stamp or indefinite leave stamp on a passport or other document issued to the applicant where the stamp was previously fixed on another passport or document issued to the applicant;”.

4. For regulation 3, substitute the following regulation—

“3.—(1) Subject to section 5(3)(a) of the 1999 Act and regulations 3A, 4 and 5 below, the fee to be paid in connection with an application falling within paragraphs (a) or (b) of the definition of “application” in regulation 2 shall be—

(a) £500 for an application made in person at a Public Enquiry Office of the Immigration and Nationality Directorate of the Home Office; or

(b) £335 for an application made by post or courier.

(1) 1999 c. 33; section 5(1) was amended by section 43 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19). Functions and matters to be taken into account in fixing fees under section 5(1) are specified in articles 2(3) and 3(1) of the Immigration (Application Fees) Order 2005 (S.I.2005/582).

(2) S.I. 2003/1711, amended by S.I. 2004/580, 2004/3105.

(2) Subject to section 5(3)(a) of the 1999 Act, the fee to be paid in connection with an application falling within paragraph (c) of the definition of “application” in regulation 2 shall be—

- (a) £500 for an application made in person at a Public Enquiry Office of the Immigration and Nationality Directorate of the Home Office; or
- (b) £160 for an application made by post.”.

5. For regulation 3A, substitute the following regulation—

“**3A.**—(1) Regulation 3(1) does not apply to an application falling within paragraph (a) or (b) of the definition of “application” in regulation 2 above where the application is for leave to remain in the United Kingdom:

- (a) as a student,
- (b) as a student nurse,
- (c) to re-sit an examination,
- (d) to write up a thesis,
- (e) as a student union sabbatical officer, or
- (f) as a prospective student, under the immigration rules.

(2) The fee to be paid in connection with an application referred to in paragraph (1) shall be—

- (a) £500 for an application made in person at a Public Enquiry Office of the Immigration and Nationality Directorate of the Home Office; or
- (b) £250 for an application made by post.”.

6. In regulation 5(c), for the words “referred to in regulation 3A(1) above” substitute the words “for leave to remain in the United Kingdom:

- (i) for work permit employment,
- (ii) as a highly skilled migrant,
- (iii) as a seasonal agricultural worker,
- (iv) for the purposes of employment under the Sectors-Based scheme, or
- (v) for Home Office approved training or work experience, under the immigration rules”.

7. In regulation 5—

- (a) after subparagraph (d), delete “or”; and
- (b) after subparagraph (e), insert—
“; or

- (f) the application is made in respect of a person who, at the time of making the application, has limited leave to enter or remain in the United Kingdom which was granted outside the provisions of the immigration rules on the rejection of his asylum claim and is seeking further leave to remain in the United Kingdom outside the provisions of the immigration rules”.

Home Office
10th March 2005

Des Browne
Minister of State

We approve

10th March 2005

John Heppell
Nick Ainger
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Immigration (Leave to Remain) (Fees) Regulations 2003 (the “2003 Regulations”).

Regulation 3 of these Regulations amends the definition of “application” in line with section 43 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004(3) which allows fees to be charged for the transfer of limited (as well as indefinite) leave stamps and which allows fees to be charged for the transfer of leave stamps (limited and indefinite) to and from documents other than passports.

Regulation 4 of these Regulations substitutes a new regulation 3 in the 2003 Regulations. This new regulation increases the fees for leave to remain applications, applications for the variation of leave to enter and remain, and applications for the transfer of limited or indefinite leave stamps. For leave to remain applications, the fee for applications made in person at public enquiry offices is increased from £250 to £500. The fee for postal applications is increased from £155 to £335. For transfer of leave stamp applications, the fee for applications made in person at public enquiry offices is £500. The fee for postal applications is £160.

Regulation 5 of these Regulations replaces regulation 3A of the 2003 Regulations with a new provision. This has two effects. First, deletion of existing regulation 3A means that applications for leave to remain for work permit employment, as a highly skilled migrant, as a seasonal agricultural worker, for the purposes of employment under the Sectors-Based scheme and for Home Office approved training or work experience will be charged the same fee as for all other leave to remain applications (£335 for postal or courier applications and £500 for applications made at public enquiry offices).

Secondly, insertion of a new regulation 3A means that a reduced fee of £250 is payable for postal applications for leave to remain, or postal applications for variation of leave to enter or remain, made by students, student nurses, persons seeking leave to remain to re-sit an examination or write up a thesis, student union sabbatical officers and prospective students. The fee for these applications made in person at a public enquiry office will be the same as for all other leave to remain applications (£500).

Regulation 6 makes an amendment to regulation 5(c) of the 2003 Regulations, which is consequential on the replacement of regulation 3A of those Regulations. The amendment specifies which applications are the relevant applications for the purposes of regulation 5(c).

Regulation 7 of these Regulations inserts into the 2003 Regulations a further exemption from the requirement to pay the prescribed fee. Pursuant to this new exemption, no fee is payable in connection with an application for leave to remain, or an application for the variation of leave to enter and remain, where the applicant has limited leave to enter or remain in the United Kingdom which was granted outside the provisions of the immigration rules on the rejection of his asylum claim and is seeking further leave to remain in the United Kingdom outside the provisions of the immigration rules.